

R277-517 was approved by the Utah State Board of Education on August 7, 2015. R277-517 is published in the September 1, 2015 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of October 8, 2015.

~~[R277. Education, Administration.~~

~~R277-517. Board and UPPAC Disciplinary Definitions and Actions.~~

~~R277-517-1. Definitions.~~

~~_____ A. "Administrative hearing" means a formal adjudicative proceeding consistent with 53A-6-601. The Utah State Board of Education and Utah State Office of Education licensing process is not governed by the Utah Administrative Procedures Act Section 63G-4.~~

~~_____ B. "Board" means the Utah State Board of Education.~~

~~_____ C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file owned and maintained on all licensed Utah educators. The file includes information such as:~~

~~_____ (1) personal directory information;~~

~~_____ (2) educational background;~~

~~_____ (3) endorsements;~~

~~_____ (4) employment history; and~~

~~_____ (5) a record of disciplinary action taken against the educator.~~

~~_____ D. "Educator paper licensing file" means the file maintained securely by UPPAC on an educator. The file is opened following UPPAC's direction to investigate alleged misconduct. The file contains the original complaint, subsequent correspondence and the final disposition of the case.~~

~~_____ E. "Revocation" means a permanent invalidation of a Utah educator license.~~

~~_____ F. "Stipulated agreement" means an agreement between a respondent/educator and the Board or between a respondent/educator and UPPAC under which disciplinary action against an educator's license status will be taken, in lieu of a hearing. At any time after an investigative letter has been sent, a stipulated agreement may be negotiated between the parties and becomes binding when approved by the Board.~~

~~_____ G. "Suspension" means an invalidation of a Utah educator license. A suspension may include specific conditions that an educator shall satisfy and shall identify a minimum time period that shall elapse before the educator can request a reinstatement hearing before UPPAC.~~

~~_____ H. "Utah Professional Practices Advisory Commission (Commission or UPPAC)" means a commission established to assist and advise the Board in matters relating to the professional practices of educators, as established under Section 53A-6-301.~~

~~_____ I. "UPPAC disciplinary letters or action" means letters sent or action taken by UPPAC informing the educator of licensing disciplinary action not rising to the level of license suspension. Disciplinary letters and action include the following:~~

~~_____ (1) Letter of admonishment is a letter sent by UPPAC to the educator cautioning the educator to avoid or take specific actions in the future;~~

~~_____ (2) Letter of warning is a letter sent by UPPAC to an educator for misconduct that was inappropriate or unethical that does not warrant longer term or more serious discipline;~~

~~_____ (3) Letter of reprimand is a letter sent by UPPAC to an educator for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting more serious discipline;~~

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~~—— (4) Probation is an action directed by UPPAC for an indefinite or designated time period usually accompanied by a disciplinary letter.~~

~~—— J. “UPPAC investigative letter” means a letter sent by UPPAC to an educator notifying the educator that an allegation of misconduct has been received against him and UPPAC has directed that an investigation of the educator’s alleged actions take place.~~

~~—— K. “USOE” means the Utah State Office of Education.~~

~~R277-517-2. Authority and Purpose.~~

~~—— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, by Section 53A-6 which establishes provisions related to educator licensing and professional practices, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~—— B. The purpose of this rule is to:~~

~~—— (1) provide standards and procedures to ensure protection of students’ physical, emotional, academic and social well-being at school by all the adults who work for Utah public schools.~~

~~—— (2) provide definitions and provisions explaining UPPAC actions and recommendations that do not rise to the level of action against an educator’s license and to provide definitions and criteria for Board disciplinary actions against educator licenses.~~

~~R277-517-3. UPPAC Disciplinary Actions.~~

~~—— A. UPPAC is an advisory body to the Board.~~

~~—— B. Unlike Board action, a UPPAC action does not affect the validity of a Utah educator license.~~

~~—— C. UPPAC may issue the following disciplinary actions:~~

~~—— (1) Letter of admonishment:~~

~~—— (a) sent directly to the educator;~~

~~—— (b) cautioning the educator to avoid or take specific actions in the future;~~

~~—— (c) does not show as a notation on CACTUS;~~

~~—— (d) is maintained permanently in educator’s paper licensing file.~~

~~—— (2) Letter of warning:~~

~~—— (a) sent directly to the educator;~~

~~—— (b) warns the educator that specific behavior or conduct was inappropriate or unethical and directs the educator to avoid or take specific actions in the future;~~

~~—— (c) does not show as a notation on CACTUS;~~

~~—— (d) is maintained permanently in educator’s paper licensing file;~~

~~—— (e) notice sent by UPPAC to employer or former employer that investigation was closed with a letter of warning.~~

~~—— (3) Letter of reprimand:~~

~~—— (a) sent to educator and to educator’s employer or former employer, if the employer is a public or private school;~~

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~~—— (b) strongly reprimands the educator that specific behavior or conduct was unethical or unacceptable among professional educators and directing the educator to avoid or take specific action in the future;~~

~~—— (c) shows as a notation on educator's CACTUS file which directs those with CACTUS access to contact USOE for further information;~~

~~—— (d) often, but not always, includes a period of probation during which educator must meet specific conditions;~~

~~—— (e) remains as a notation on educator's CACTUS file for at least two years from the date of UPPAC action unless a different time period is identified by the reprimand letter or in the stipulated agreement for the letter;~~

~~—— (f) is maintained permanently in educator's paper licensing file.~~

~~—— (g) may be removed from educator's active CACTUS file, upon educator's request, following designated time period and satisfaction of conditions by educator. UPPAC shall review the request, review educator's file and subsequent actions and may require educator to meet with UPPAC prior to granting the request;~~

~~—— (4) probation:~~

~~—— (a) usually, but not always, accompanies a warning or reprimand letter and~~

~~—— (b) designates time period and conditions that educator receiving other UPPAC discipline may be asked to satisfy prior to lifting of the probation or to avoid further UPPAC discipline;~~

~~—— (c) shows as a notation on an educator's CACTUS file and directs those with CACTUS access to contact USOE for further information.~~

~~—— (d) remains on educator's CACTUS file for at least 2 years from the date of UPPAC action unless a different time period is designated;~~

~~—— (e) may be lifted upon educator's request following designated time period and satisfaction of all conditions; UPPAC shall review the request, review educator's file and subsequent action and may require educator to meet with UPPAC prior to granting the request;~~

~~—— (5) other disciplinary action or letter that is appropriate and reasonable to address or remediate educator misconduct, or both, that is not suspension or revocation.~~

~~—— D. UPPAC shall make written recommendations to the Board for disciplinary actions that affect educator licenses including suspension, revocation and reinstatement.~~

~~—— E. UPPAC action is a final administrative action for those disciplinary actions found in R277-517-3C, and the existence of such action is public information under Section 63G-2-201(2)(c). The substance of disciplinary letters is protected under Section 63G-2-305(25), (33) and (34).~~

~~—— F. UPPAC shall send notice of final UPPAC action to an educator no more than 30 days following a final UPPAC action.~~

~~—— G. UPPAC shall not provide information to the public about UPPAC actions until they have been reviewed or acted upon or both by the Board.~~

~~R277-517-4. Board Receipt and Review of UPPAC Recommendations.~~

~~—— A. The Board shall review UPPAC recommendations for suspension, revocations,~~

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~~reinstatements, and other disciplinary actions upon request in executive sessions consistent with Section 52-4-204 through 206.~~

~~—— B. UPPAC shall make Hearing Reports and stipulated agreements available for a confidential review by Board members prior to and during the Board's discussion of cases.~~

~~—— C. UPPAC shall make case files, hearing recordings and exhibits available for review by Board members as directed by the Board.~~

~~—— D. UPPAC shall forward the completed UPPAC Recommendation Report Form to the Board for its consideration.~~

~~—— E. If the Board takes final action to accept the recommendations of a UPPAC hearing report, the final hearing report is a public record, but may be redacted prior to release to protect the names of students or information consistent with Section 63G-2-202(3).~~

~~—— F. If the Board does not accept a UPPAC recommendation, the Board shall prepare written findings and conclusions based on the record and take any other action consistent with procedures in R277-514-4C, and provide the findings to the educator consistent with R277-517-5D and E, below. The Board findings and conclusions are a public record, but may be redacted prior to release to protect the names of students or information consistent with Section 63G-2-202(3).~~

~~—— G. The Board shall initially review UPPAC recommendations at the next regularly scheduled Board meeting following receipt of written recommendations.~~

R277-517-5. Board Disciplinary Actions.

~~—— A. Board disciplinary actions:~~

~~—— (1) The Board may suspend an educator's license consistent with R277-517-1G:~~

~~—— (a) A suspension may be recommended by a Stipulated Agreement negotiated between UPPAC and an educator; or~~

~~—— (b) A suspension may be recommended following an administrative hearing under the provisions of R686-100;~~

~~—— (c) A suspension may include specific conditions which shall be satisfied by the educator prior to requesting a reinstatement hearing from UPPAC under R686-100;~~

~~—— (d) A suspension shall provide a minimum time period after which the educator may request a reinstatement hearing from UPPAC.~~

~~—— (2) The Board may revoke an educator's license:~~

~~—— (a) A revocation is permanent, except as provided under R277-517-5A(2)(c) below;~~

~~—— (b) A revocation is required under Section 53A-6-405(2);~~

~~—— (c) An individual whose license has been revoked may seek reinstatement of his license only in the following limited circumstances:~~

~~—— (i) the individual provides evidence of mistake or false information that was critical to the revocation action;~~

~~—— (ii) the individual identifies material procedural UPPAC or Board error in the revocation process.~~

~~—— (3) If a complaint is filed against an educator and the educator fails to respond to the complaint or fails to appear for a hearing before the Board or UPPAC, the Board may~~

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~~revoke or suspend the educator's license. This action may be taken only if UPPAC has documentation of attempts to contact the educator, consistent with R686-100.~~

~~—— (4) The Board may reinstate an educator's license:~~

~~—— (a) An educator may request a reinstatement hearing following a license suspension. The reinstatement request shall be made consistent with R686-100.~~

~~—— (b) An educator has a reasonable expectation of a reinstatement hearing, consistent with due process and reinstatement hearing conditions set by UPPAC, but no expectation of license reinstatement by the Board.~~

~~—— (c) An educator whose license has been suspended and the reinstatement denied by the Board may request an additional reinstatement hearing once every 24 months unless otherwise directed by the Board.~~

~~—— (d) An educator requesting a reinstatement hearing shall have a criminal background check, that was conducted not more than six months prior to the requested hearing, on file with the USOE. The background check and review of any offenses must be completed prior to reinstatement.~~

~~—— (e) Prior to sending a reinstatement recommendation to the Board for its consideration, UPPAC shall provide evidence to the Board of its consideration of Board-identified criteria central to the Board's authority to reinstate an educator's license.~~

~~—— D. The Board has sole discretion in final administrative decisions.~~

~~—— E. The Board shall send written notice to an educator of Board action no more than 30 days following the Board's final action.~~

~~—— F. The Board shall send written notice of an educator's license suspension or revocation to an educator's former employer if the employer was a public or private school.~~

KEY: educator, professional, standards

Date of Enactment or Last Substantive Amendments: June 8, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6; 53A-1-401(3)]